

REMARKS

In the Office Action of June 27, 2005, the Examiner rejected some of the claims and indicated that others contained allowable subject matter. Claims 3, 6, 7, 13, 16 and 17 were objected to, but found to contain allowable subject matter if written in independent form.

Specifically, claims 1, 3, 4, 5, 8 through 12, 14, 15 and 18 through 20 were rejected under 35 USC 103 (a) based on the Montgomery patent in view of the Tauber patent and Adams et al patent. Applicant wishes to respond as follows:

The primary patent reference to Montgomery that was relied upon by the Examiner is directed to safety closures and containers. However, this patent to Montgomery does not show a base element adapted to attach to a tube container as in the present invention. The Examiner addressed other shortcomings of Montgomery and found it necessary to supply two additional patents in combination with Montgomery. However, neither Tauber nor Adams shows the Montgomery device as having a separate base element along with having the other Montgomery device features. Further, none of the references show a spring located on base element or base element sidewall. Additionally, these references teach separate container and closure systems that are independent from one another, how no motivation to combine, and only through study of the present invention is there an understanding to asset such combinations of techniques.

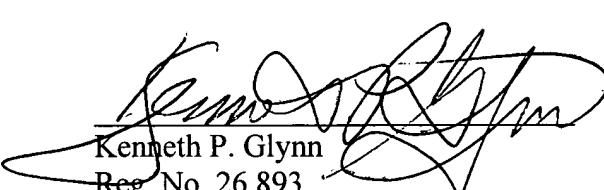
Notwithstanding, the above arguments, applicant has submitted new main claims with limitations not set forth in the original main claims. In addition, all of the new claims are structurally more specific and have a "consists of" preamble. Thus, it is believed for all of these reasons that the rejections have been obviated and should be withdrawn.

In view of the above amendments and remarks, it is urged that claims 21 through 40 should be allowed.

Thank you.

Respectfully submitted,

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EM RRR ED 982885606 US



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re application of:

JOHN HARROLD

Serial No.: 10/661,134

Filing Date: September 12, 2003

For: CHILD RESISTANT SAFETY CAP FOR
APPLICATOR TUBES

: Examiner:

: PHILIPPE DERAKSHANI

: Group Art Unit No. 3754

: Attorney Docket No.

: SWD-127A

:

Honorable Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

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The undersigned hereby certifies that this document was delivered to the United States Post Office in Flemington, New Jersey 08822 between 7:30 a.m. and 4:30 p.m. Monday, September 26, 2005 as EXPRESS MAIL, RETURN RECEIPT REQUESTED. The undersigned further declares that this Certification is made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under applicable sections of United States Patent and Trademark Office and may jeopardize the validity of the application or issuing patent related thereto.

Christine R. Pittman

EM RRR No. ED 982885606 US
(Docket No. SWD-127A)